

RECEIVED

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

JUL - 9 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
	)	
Rules and Policies on Foreign Participation	)	IB Docket No. 97-142
in the U.S. Telecommunications Market	)	
	)	

COMMENTS OF THE  
UNITED STATES TELEPHONE ASSOCIATION

The United States Telephone Association ("USTA") hereby submits comments in the above-captioned proceeding.<sup>1</sup> As the principal trade association of the local exchange carrier (LEC) industry, USTA comprises approximately 1,200 domestic and international local exchange carriers that are directly affected by the Commission's actions in this docket. USTA's domestic member telephone companies provide over 95 percent of the access lines offered by incumbent LECs in the United States. Many of these domestic members also have international operations, and these serve customers in over 50 foreign countries. USTA also has an international membership category, and has international member telephone companies based in North and South America, Asia and Africa.

---

<sup>1</sup> Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, *Order and Notice of Proposed Rulemaking*, IB Docket No. 97-142, FCC 97-195 (Rel. June 4, 1997) (NPRM).

0+9

## I. INTRODUCTION

On February 15, 1997, 69 out of 129 members of the World Trade Organization concluded an agreement which will allow competition in basic telecommunications services beginning on January 1, 1998. Under the World Trade Organization ("WTO") Basic Telecom Agreement ("Agreement"), domestic and foreign suppliers will be allowed to provide local, long distance and international services, by wire or radio, on a facilities basis or through resale, in 69 countries including the U.S. USTA fully supports the goal of open markets for basic telecommunications services as outlined in the WTO Agreement. The Agreement will facilitate not only the many international efforts of USTA's domestic members, but the efforts of USTA's international members in the U.S. USTA member companies have diversified interests around the world. The large U.S. member companies and several of the mid-size and small member companies presently have and continue to expand their activities to markets outside of the U.S. through participation in joint ventures, strategic alliances, privatizations and investments in telecommunications opportunities on every continent. These activities include wireline and wireless local and long distance telephone services and related activities. USTA's largest international member, Nippon Telegraph & Telephone of Japan, is seeking approval to provide service on virtually all U.S. international routes on a facilities and resale basis. The Agreement will facilitate all these activities and encourage more activities of this kind. Furthermore, the new opportunities to conduct operations on a global scale will afford telecommunications companies with additional economies and expertise which they can use for the benefit of all of their customers.

The Reference Paper on Pro-Competitive Regulatory Principles negotiated as part of the Agreement includes a valuable set of guidelines aimed at ensuring that all signatories create an open market regime to encourage the international flow of investment, and requiring each signatory to create a regulatory environment which will treat all players fairly and prevent the abuse of dominance. Among other things, the Reference Paper recognizes the importance of universal service by providing that any WTO Member has the right to define the universal service obligation it wishes to maintain and requires that universal service obligations be administered in a transparent, non-discriminatory and competitively neutral manner. This recognition is appropriate. USTA further notes that the Reference Paper clearly permits flexibility for signatories to establish individualized open market regimes. Therefore, while the Commission believes that the principles set forth in the Reference Paper are "essentially the same as the requirements of the Communications Act and the Telecommunications Act of 1996 that this Commission has implemented over the past 16 months" (*NPRM* at para. 24), USTA cautions that the U.S. model should not be construed as the only regulatory model that will satisfy the open entry and pro-competition requirements of the Agreement and Reference Paper.

## II. THE COMMISSION SHOULD PROMOTE OPEN MARKETS FOR FOREIGN AND DOMESTIC COMPETITORS

There can be no doubt that open entry as required under the Agreement will benefit the American consumer. As the Commission correctly observes, "Open entry introduces new sources of competition, which will produce lower prices and greater service choice and innovation for American consumers" (*NPRM* at para. 5). At the same time, pursuant to this Agreement foreign

companies will be allowed full access to all U.S. telecommunications markets while the RBOCs are still precluded from being "full service providers" in the U.S. This is not a criticism of the Agreement. Rather, the Agreement points up the need for full open entry, a target which has been delayed, in the opinion of USTA, for reasons beyond the control of the RBOCs.

The Commission should provide equivalent opportunities for all competitors and should not treat foreign competitors any better than it treats domestic carriers. The Commission should therefore move as quickly as possible to open the U.S. market for all U.S. companies. The exclusion of the RBOCs from the U.S. long distance and international markets is based on perceptions about the competitive nature of the market for local services prior to the completion of this Agreement. As the Commission has correctly observed, "the WTO Basic Telecom Agreement promises to alter fundamentally the competitive landscape for telecommunications services" (*NPRM* at para. 2). Incumbent LECs now face the prospect of competition from large international carriers. In order to respond to this and other competition, it is more important than ever for all LECs to be allowed to offer a full complement of services.

### III. COMPETITION FROM FOREIGN PROVIDERS, WHICH CHANGES THE COMPETITIVE LANDSCAPE, PROVIDES AN OPPORTUNITY FOR ADDITIONAL REGULATORY STREAMLINING

The implementation of the WTO Basic Telecom Agreement is clearly another occasion on which the Commission should revisit the additional requirements and burdens that it places on incumbent LECs. Now these companies will be competing not only with large U.S. firms such as AT&T, but with numerous and large international carriers. Thus, requirements such as the

new "separate subsidiary" rule for the long distance operations of independent LECs<sup>2</sup> are counterproductive. No foreign carrier will be subject to such a rule. The Commission's rules should reflect the new competitive landscape, not the old one. The presence of foreign competitors changes the underlying rationale for many of the Commission's rules, which assume entry barriers. Therefore, USTA urges the Commission to review its existing common carrier regulations and, pursuant to its authority under Sections 401 and 402 of the 1996 Act, streamline these rules as appropriate to allow consumers to enjoy the maximum benefits of competition.

#### IV. RULES WHICH ARE SIMPLE, NON-BURDENSOME AND EFFECTIVE WILL BEST PROMOTE COMPETITION CONSISTENT WITH U.S. OBLIGATIONS UNDER THE AGREEMENT

The General Agreement on Trade in Services requires that domestic regulation must be reasonable, objective and impartial, and provides a dispute settlement procedure and remedies. In carrying out this requirement, each country's implementation of the Agreement should be directed toward simple, non-burdensome and effective rules that allow all carriers (foreign and domestic) to compete on an equal footing and provide any safeguards that may be needed in the most streamlined fashion possible. Otherwise, it will be very difficult for the U.S. and other signatories to monitor the implementation of the Agreement. Rules which meet these conditions will be easier for all competitors to follow and will minimize disputes. In the event that disputes

---

<sup>2</sup> See Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area and Policy and Rules Concerning the Interstate Interexchange Marketplace, CC Docket Nos. 96-149 and 96-61, *Second Report and Order*, FCC 97-142 (Apr. 17, 1997).

do arise, rules which meet these conditions will be easier to defend in dispute settlement proceedings. For example, the Commission is considering adopting a form of Customer Proprietary Network Information rules applicable between U.S. carriers and their foreign affiliated carriers. USTA does not believe such rules are necessary, but if the FCC moves forward, the Commission should strive to find regulations which are as straightforward as possible, and that can be implemented in the most streamlined manner possible. It is absolutely vital that these rules be consistent with the domestic CPNI rules now under consideration at the FCC. U.S. carriers should be able to satisfy both requirements with one set of procedures. Those procedures should be straightforward enough so that it will be possible to ascertain whether they are being applied consistently in other WTO jurisdictions. The Commission should avoid imposing onerous customer approval procedures that would make it harder to provide one-stop shopping options, which most customers prefer, or to communicate with customers periodically about new products, services, or discounts that may benefit them, which most customers find acceptable.<sup>3</sup>

---

<sup>3</sup> See Comments of USTA, CC Docket No. 96-115 (filed Mar. 17, 1997).

## V. CONCLUSION

The WTO Basic Telecom Agreement will benefit consumers by introducing additional competition into the telecommunications markets of 69 countries. In the process, the Agreement will fundamentally change the competitive landscape in the U.S. The Commission should take advantage of the opportunity afforded by the Agreement to initiate domestic reforms that will magnify the scope and scale of these benefits. Specifically, and for the reasons stated above, the Commission should promote open markets for all competitors, whether foreign or domestic. The additional competition which will flow from such a policy will provide an opportunity for additional regulatory streamlining, which the Commission should undertake without delay pursuant to the authority conferred to it by the 1996 Act. As a general matter, rules which are simple, non-burdensome and effective will best promote competition consistent with U.S. obligations under the agreement.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

By:



Mary McDermott

Linda Kent

Keith Townsend

Hance Haney

Its Attorneys

1401 H Street, N.W., Suite 600

Washington, D.C. 20005

(202) 326-7255

July 9, 1997